

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

MARC E. OLIVER, d/b/a GULF COAST ENVIRONMENTAL AND RECOVERY, and T.M. JEMISON CONSTRUCTION CO. INC. d/b/a JEMISON MARINE, INC., Plaintiffs,	: : : :	CA 11-0223-KD-C
MIDSOUTH BANK, N.A., Plaintiff/Counter-Defendant	:	IN ADMIRALTY <i>In Personam and In Rem</i>
vs.	:	
M/V BARBARY COAST, her engines, tackle, furniture, and appurtenances, etc., <i>In Rem</i>, and RODD CAIRNS, an individual, and ATCHAFALAYA MARINE, LLC, <i>In personam</i>, Defendants/Counter-Plaintiffs/ Third-Party Plaintiffs,	: : : : : :	
vs.	:	
EAGLE RIVER TOWING, L.L.C., p/k/a or a/k/a EAGLE INLAND TOWING, NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, LOUISIANA LIMESTONE & LOGISTICS, L.L.C., and CURTIS BUFORD, Third-Party Defendants.	: : : : : : :	

ORDER

This matter is before the Court on a “Motion to Dismiss Claims With Prejudice” filed by Defendants/Third-Party Plaintiffs Atchafalaya Marine, LLC (“Atchafalaya”) and Rodd Cairns (“Cairns”) (Doc. 207), and a “Motion to Dismiss Claims With Prejudice” filed by Intervenor Plaintiff Midsouth Bank, N.A. (Doc. 209). As grounds, the parties explain that they have resolved all of their respective claims and counterclaims against each other such that dismissal

with prejudice of same is proper, and further request that each party bear its own costs and attorneys' fees. (Id.)

The motions are construed as Rule 41(a)(2) voluntary motions to dismiss "at the plaintiff's request only by court order, on terms that the court considers proper[]," given that the motions are not signed by all parties to this case, are not joint stipulations, and the opposing parties have served answers. Upon consideration, it is **ORDERED** that:

1) the "Motion to Dismiss Claims With Prejudice" filed by Atchafalaya Marine, LLC and Rodd Cairns (Doc. 207) is **GRANTED** such that Atchafalaya and Cairns' counterclaims against Midsouth Bank, N.A. (as contained in Doc. 21) are **DISMISSED with prejudice**.

2) the "Motion to Dismiss Claims With Prejudice" filed by Midsouth Bank, N.A. (Doc. 209) is **GRANTED** such that Midsouth Bank's claims against Atchafalaya and Cairns (as contained in Docs. 5 and 64) are **DISMISSED with prejudice**.

3) With regard to the foregoing, each party shall bear its own costs and attorneys' fees.

This Order of dismissal shall have no effect upon these parties' claims, counterclaims and/or crossclaims against any other parties in this action.

DONE and ORDERED this the 11th day of **April 2012**.

/s/ Kristi K. DuBose

KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE